

SITE DEVELOPMENT PERMIT

FILE NO.	H14-023
LOCATION OF PROPERTY	Northwest corner of San Pedro Street and Post Street
ZONING DISTRICT	DC Downtown Primary Commercial
GENERAL PLAN DESIGNATION	Downtown
PROPOSED USE	Construction of a high rise building of up to 182 residential units, 7,767 square feet of commercial use, and an associated parking garage.
ENVIRONMENTAL STATUS	Addendum to the Envision San Jose 2040 General Plan (Resolution No. 76041) and Downtown Strategy 2000 (Resolution No. 72767)
APPLICANT/ADDRESS	Henry Cord Cord Associates 42 South First Street, Suite D San Jose, CA. 95113
OWNER/ADDRESS	Ag-dcp 160 Wsc Owner LP. 120 West Grand Avenue, Suite 205 Escondido, CA. 92025

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located at the northwest corner of San Pedro Street and Post Street. The site is bounded by office uses and a garage to the north, and commercial uses to the west, east, and south.
2. **Project Description.** This is a Site Development Permit to allow the construction of a high rise mixed-use building of up to 182 residential units, 7,767 square feet of commercial use, and an associated parking garage on an approximately 0.47 gross acre site.
3. **General Plan Conformance.** The Project is consistent with the General Plan in that:
 - a. The Project is consistent with the site's Envision San Jose 2040 General Plan Land Use / Transportation Diagram designation of Downtown which allows residential uses with ground floor commercial uses and between 3 and 30 stories in height is supported within this designation.
 - b. The Project is in conformance with Goal LU-3-Downtown in that the project contributes to Downtown as a regional job, entertainment, and cultural destination and serves as the symbolic heart of San Jose.

- c. The Project is in conformance with Land Use Policy LU-1.1 in that the project encourages walking by creating safe, attractive, and accessible pedestrian connections between developments to adjacent public streets to minimize vehicular miles traveled.
 - d. The Project is in conformance with Land Use Policy LU-3.1 in that the project includes a mix of uses in a compact, intensive form to maximize social interaction.
 - e. The Project is in conformance with Land Use Policy LU-3.5 in that the project capitalized upon an existing parking garage to minimize the impacts of parking upon a vibrant pedestrian and transit oriented urban environment. The Project also provides adequate bicycle parking and site design measures to promote pedestrian safety.
4. **Zoning Code Compliance.** The Project is consistent with the regulations of the Zoning Ordinance in the following manner:
- a. **Parking Requirement.** The Project provides vehicle, motorcycle, and bicycle parking at the appropriate ratios defined in Chapter 20.90 of the Municipal Code. Table 20-140 of the Municipal Code requires one parking space per unit and does not require parking for general retail uses. The proposed project provides 230 parking spaces, and meets the parking requirements of the Zoning Code.
 - b. **Setbacks.** Properties within the Downtown Primary Commercial zoning district are not subject to minimum setback requirements.
 - c. **Height.** Properties within the Downtown Primary Commercial zoning district are not subject to height limits designation by the City, but are subject to the elevation restrictions prescribed under the Federal Aviation Regulations. The proposed project will require FAA clearance prior to the issuance of building permits.
5. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
- a. An Addendum to the Envision San Jose 2040 General Plan (Resolution No. 76041) and Downtown Strategy 2000 (Resolution No. 72767) was granted for this project under the provisions of environment review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
6. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.
- a. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 - i. The proposed buildings are architecturally compatible with the existing buildings within the immediate downtown area.
 - b. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 - i. The proposed building is oriented to the street, and provides strong connections to the adjacent properties.

- c. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
 - i. The project is compatible with the activity of the surrounding neighborhood and conditions of this permit will prevent unacceptable negative affects of construction.
- d. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.
 - i. Construction upon the currently vacant site will contribute to the appearance of the neighborhood.
- e. Traffic access, pedestrian access and parking are adequate.
 - i. The proposed project meets the requirements of the Municipal Code which specify traffic and pedestrian access and parking requirements.
- f. The project is either consistent with the General Plan or counterbalancing considerations justify the inconsistency.
 - i. The proposed project is consistent with the General Plan designation of Downtown in that the project provides a mix of residential and commercial uses which support a vibrant downtown.

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Amendment must be approved prior to the expiration of this Permit.

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, "Post and San Pedro Tower" dated August 13, 2014, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Streetscape Improvements.** Prior to the issuance of Public Works Clearance, the permittee shall submit a Permit Adjustment to install decorative sidewalk treatment, decorative crosswalks and a technology charging station.
7. **Cross Access Agreement.** Prior to the issuance of building permits, a cross access agreement allowing access into the proposed garage from the existing garage entrance on the adjacent property shall be provided to the satisfaction of the Director of Planning, Building,
8. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
9. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
10. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
11. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.

12. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
13. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
14. **Directory.** A lighted directory showing addresses and locations of all buildings on site shall be provided at the main entrance of the site.
15. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
16. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
17. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
18. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
19. **Perimeter Fencing.** Fence height and materials shall be provided as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
20. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set, or as modified by a Permit Adjustment.
21. **Motorcycle Parking.** This project shall conform to the motorcycle parking requirements identified in the Zoning Ordinance, as amended. The required spaces shall be provided through a combination of dedicated spaces as shown on the plans and the use of surplus vehicular parking spaces which may serve as motorcycle parking spaces.
22. **Bicycle Parking Provisions.** This project shall provide a combination of short term uncovered bike parking as well as long term covered parking consistent with the requirements noted in the Zoning Ordinance.
23. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
24. **Green Building Requirements for Mixed Use New Construction Projects.** The development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the applicant shall pay a Green Building Refundable Deposit applicable to the gross square footage of said buildings which are approved through this permit. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.

25. **Deadline for Commencing Construction.** This permit shall automatically expire two years from and after the date of issuance hereof by said Director if within such two-year period construction of buildings has not commenced, pursuant to and in accordance with the provisions of this permit. The date of issuance is the date this permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this permit for a period of up to two years.
26. **Alcohol Sales.** This Permit does not include any approval for off-sale alcohol.
27. **Noise.** Sounds shall be contained within the buildings and the buildings shall be adequately insulated to prevent excessive sound from emanating outside. Adequate HVAC (air conditioning) shall be provided to allow all doors and windows on the subject site to remain closed during the operation and activities of the site. Maximum noise levels emanating from the interior any of the facilities shall not exceed 55 decibels at the adjacent property line.
28. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
29. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
30. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
31. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract map by the Director of Public Works, or the issuance of Building permit(s), whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Transportation:**
 - i. This project is located in the expanded Downtown Core and is covered under the new San Jose Downtown Strategy 2000 EIR; therefore, no further traffic analysis is required. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.
 - ii. The project's Operational Analysis has been approved. See separate Traffic memo dated 08/26/14 for additional information.

c. **Grading/Geology:**

- i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- ii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
- iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

- i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
- ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

f. **Flood: Portion in Zone D and Portion in Zone X:**

- i. Zone D: The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- ii. Zone X: The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for Zone X.

g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

h. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for

public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.

- i. **Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Post Street prior to issuance of a Public Works Clearance. Twenty-five percent (25%) of the base fee in place at the time of payment will be due. Currently, the 2014 base fee is \$440 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. (Based on 2014 rate, the fee is approximately \$22,943.)
- j. **Assessments:** This project is located within the Premium Zone of the Downtown San Jose Property-Based Business Improvement District which provides enhanced cleaning, information and safety services, beautification activities, and business retention and growth programs within the boundaries of the district. The benefiting properties within the district pay for the services through annual assessments placed on the property tax bills which may be increased by up to 5% each year. The 2014-15 assessment is calculated based on the land use of its building and lot square footage. Commercial uses pay \$0.101024508 per building and lot square footage; residential uses pay \$0.081422464 per building and lot square footage. Future year assessments will continue to be collected minus any credits through the County property tax bills listed under Tax Code 916 "SJ DOWNTOWN PBID". Questions may be directed to Thomas Borden at (408) 535-6831.
- k. **Sanitary:**
 - i. The existing 8" sewer line along Post Street has been analyzed and it has been determined that there is sufficient capacity for the projected flow from the proposed development.
 - ii. The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
- l. **Greater Downtown Area Master Plans:** This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San Jose Downtown Streetscape and Street and Pedestrian Lighting Master Plans.
- m. **Street Life Plan:** Per the Street Life Plan, the project proposes to install decorative sidewalk treatment, decorative crosswalks and a technology charging station within the public right-of-way. Further coordination and approval will be required prior to installation of any of the above items.
- n. **Street Improvements:**
 - i. Per the San Jose Downtown Streetscape Master Plan, provide a 12-foot attached sidewalk with tree wells along Post Street.
 - ii. Provide a 12-foot attached sidewalk with tree wells along San Pedro Street.
 - iii. Remove and replace the handicap ramp located at the northwest corner of San Pedro Street and Post Street with new ADA compliant ramps.
 - iv. Remove and replace the handicap ramp located at the northeast corner of Post Street and Almaden Avenue with a modified City Standard R-10 handicap ramp.

- v. Per the San Jose Downtown Streetscape Master Plan, place benches along Post Street either within the Curb Zone or within the Building Zone, so as to maintain a 5' minimum clearance for pedestrians. Final location and approval of benches will need to be coordinated with the Downtown Association (PBID) at the Implementation stage.
- vi. Include as part of the improvement plans a detailed sidewalk scoring pattern plan for all frontages, which shows the placement of all utilities along the frontage in relation to the scoring pattern.
- vii. Proposed driveway width to be 26'.
- viii. Close unused driveway cuts.
- ix. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works. Applicant shall also be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- x. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- o. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- p. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
- q. **Revocable Encroachment Permit (Street/Sidewalk Closures):** At the Implementation stage, Developer shall apply for a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.
 - i. The following should be included with the Revocable Permit application, but are not limited to:
 - 1) **Letter of Intent:** This document should provide a detailed description of the reasons for the sidewalk/lane closures and why they are absolutely necessary (man lifts, baker tanks, staging area, concrete pumping activities, etc.) and reasons why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).
 - 2) **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.

- ii. Developer shall minimize potential impact to vehicular and pedestrian traffic by:
 - 1) Implementing the closures at the time the onsite activities dictate the need for the closure.
 - 2) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlines in condition 10.a.ii above.
 - iii. If proposed lane and parking closures are a part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at:
<http://www.sanjoseca.gov/index.aspx?NID=3713>. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
 - r. **Shoring:**
 - i. Shoring plans will be required for review and approval as part of the Grading Permit for this project.
 - ii. If tie-backs are proposed as part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Developer or Contractor and must provide security, in the form of a Certificate of Deposit (CD) or Letter of Credit (LoC), in the amount of \$100,000.
 - s. **Construction Staging:** Closures along Post Street will be limited due to the close proximity to the Greyhound Bus station. Bus operations exiting and entering the site shall remain unimpeded during the course of construction. Developer is encouraged to develop a construction staging and operation plan prior to submitting for Building Permits. This plan shall evaluate the construction methods and means that will be implemented during construction with the tight constraints of the project site.
 - t. **Commercial Signs:** A separate Revocable Encroachment Permit must be applied for, for any proposed signs associated with the retail component of this project. Any proposed signs projecting into the public right-of-way cannot project more than four feet six inches (4'-6") from the surface of which it is attached and must be located at least eight feet (8') above grade.
 - i. **Sidewalk Cafes:** A separate Planning Permit will be required for any future proposed sidewalk cafes.
32. **Post-Construction Stormwater Runoff Treatment Measures - Maintenance and Records.** All post-construction treatment measures must be installed as specified on approved construction plans. Treatment measures shall not be altered or removed, and must be operated and maintained by qualified personnel consistent with approved development plans and/or supplemental operation and maintenance plans. Property owner must ensure that treatment measures continue to operate effectively for the life of the project. Property owners and/or property managers designated by the owner must keep a maintenance schedule and record of all treatment measures maintenance activities. Copies of maintenance schedules and records will be retained and made available for inspection upon request by the City. When used, all proprietary treatment measures must be operated and maintained per the manufacturers' specifications. The City may require additional maintenance beyond the manufacturers' specifications, if needed.

33. **Stormwater Management – Construction Activities.** The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the *CASQA Stormwater BMP Construction Handbook Portal* (July 2012). Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 East Santa Clara Street, San José, California 95113. The Erosion Control Plan may include BMPs as specified in the *CASQA Stormwater BMP Construction Handbook Portal* (July 2012) for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.
34. **Stormwater Stenciling.** All storm drain inlets and catch basins shall be labeled with the “NO DUMPING - FLOWS TO NEIGHBORHOOD CREEK” stencil. The “No Dumping” message should be applied to both the top of the curb and the face of the curb next to the storm drain inlet, preferably on the left side. If this is not feasible, place the message in the street in front of the inlet. The stencils may be obtained, at no charge, through the Environmental Service Department. Contact Suzanne Thomas at (408) 945-3000.
35. **Post-Construction Stormwater Runoff Pollution Control Measures – Construction Inspection.** The project shall notify the Public Works Department Inspector prior to the installation of all stormwater treatment control measures and/or hydromodification control (HM) facilities associated with the project. The project's Public Works Department Inspector must verify the proper installation of all stormwater treatment control measures and HM facilities prior to issuance of a Public Works Clearance.
36. **Construction Noise.** The following mitigation measures shall be implemented for construction activities wherever there is a direct view from existing residences adjacent to the site, or where construction occurs within 500 feet of a residential area.
- a. *Construction Noise.*
 - i. New contractors shall be required to use technology power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used at the project site, as well as at off-site locations with project construction, shall be equipped with adequate muffling devices. All equipment shall be in good mechanical condition, to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
 - ii. The contractor shall schedule on-site and off-site construction activities in shifts to avoid high noise levels caused by simultaneously operating several pieces of noise-generating equipment.
 - iii. Temporary berms or noise barriers, such as lumber, or other material stockpiles shall be installed during construction activities.
 - iv. The following equipment shall be used during construction
 - 1) Earth Removal: Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
 - 2) Backfilling: Use a backhoe for backfilling, as it is less costly and quieter than either noisier bulldozers or loaders.
 - 3) Ground Preparation: Use a motor grader rather than a bulldozer for final grading.

- 4) **Building Construction:** Power saws should be shielded or enclosed where practical to decrease noise emissions. Nail guns should be used where possible, as they are less noisy than manual hammering.
 - b. **Blasting Noise.** Blasting activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m. on Monday through Friday. Sufficient advance notification to the City of San José Director of Planning and Building and Director of Public Works and to residents in the area prior to initiating blasting activities shall be provided.
 - c. **Exterior Noise.** In order to reduce the exterior noise impact to homes above Dove Road, the project includes the mitigation measures below. These measures have been based on the mitigation measures outlined in the 1993 Final EIR, and have been revised based upon updated project information and noise conditions.
 - i. To achieve an acoustically-effective barrier, fences, where specifically required for purposes of noise control, must be constructed air-tight (i.e., without cracks, gaps, or other openings), and must provide for long-term durability. The barrier can be constructed of masonry, wood, concrete, stucco, earth berm, or a combination thereof, and must have a minimum surface weight of 2.5 pounds per square foot (lbs./sf). If wood fencing is used, homogeneous sheet materials are preferable to conventional wood fencing, as the latter has a tendency to warp and form openings with age. However, high-quality air-tight tongue-and-groove, board and batten or shiplap construction can be used. All connections with posts or pilasters must be sealed air-tight. No openings are permitted between the upper barrier components and the ground.
37. **Construction Impact Mitigation Measures.** The applicant is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction activities in compliance with these conditions, or be subject to enforcement action.
- a. **Compliance.** The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
 - b. **Construction Hours.** Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 4:00 p.m. on Saturday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate any audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.
 - c. **Enforcement.** The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director

may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.

- d. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
 - e. *Fencing.* The site shall be wholly enclosed by security fencing where the site is accessible by vehicles. The gates to the project site shall remain locked during all other times, except for a 30-minute period immediately preceding and following the above hours of construction.
 - f. *Assembly Area.* Workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location without adjacent residential units for workers to wait prior to the opening of the project gates.
 - g. *Disturbance Coordinator.* A Construction/Disturbance Coordinator shall be identified by the developer for this project. The Construction/Disturbance Coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other nuisance compliance conditions in this permit. The coordinator shall also compile information regarding construction phasing/operations and keep the neighborhood informed of the stages of development. The coordinator shall also listen and respond to neighborhood concerns regarding construction, determine the cause of the concern (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem in a timely manner. The coordinator shall maintain a log of calls and shall make that log available to the City of San Jose upon request.
 - h. *Posting of Telephone Number.* The name and phone number of the Construction/Disturbance coordinator, the hours of construction limitations, City File Number H14-006 City contact and phone number (department and phone number), shall be displayed on a weatherproof sign posted at each entrance to the project site. A local phone number with answering service shall be maintained during the duration of project construction.
 - i. *Street Cleaning and Dust Control.* During construction, the developer shall damp-sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
 - j. *Construction Watering.* The proposed project shall use recycled water for all grading, dust control, and other non-potable approved uses during construction to the satisfaction of the Director of Public Works.
38. **Air Quality.** During construction, the following measures shall be incorporated to mitigate any possible significant air quality impacts.
- a. Water all active construction areas at least twice daily.
 - b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.

- d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging
 - e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
39. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code. The Code addresses the use of reclaimed water including the requirement that an irrigation system be designed to allow for the current and future use of reclaimed water for all landscaped cumulative areas in excess of ten thousand (10,000) square feet. The applicant shall provide necessary infrastructure improvements to facilitate the exclusive use of reclaimed water for dust control, construction activities and irrigation of landscaped areas (except for private yard areas of individual units).
40. **Hazardous Materials Storage.** This permit does not include any approval of facilities or areas on, within, or under the site to be used for the storage of hazardous, toxic, flammable, or combustible materials, and such facilities or areas are subject to review under a separate Site Development Permit.
41. **FAA Clearance Required.** The permittee shall abide by all conditions of the Federal Aviation Administration "Determination(s) of No Hazard to Air Navigation" including maximum height specifications, filing of a "Notice of Actual Construction or Alteration" (FAA Form 7460-2) within five (5) days of each point's completed construction, and the determination expiration dates. The "Notice of Actual Construction or Alteration" forms must be filed with the FAA prior to issuance of a City certificate of occupancy.
42. **FAA Notice of Actual Construction or Alternation.** The permittee shall file FAA Form 7460-2 (Part 2), Notice of Actual Construction or Alteration within five (5) days after the construction reaches its greatest height.
43. **Avigation Easement.** City holds a recorded Avigation Easement over the subject property (granted in 1986 in association with a previous project) that restricts maximum height to approx. 190-195 feet above ground. Prior to the issuance of building permits, the permittee shall apply for a new Avigation Easement to the City that allows for a 230-ft. maximum height, subject to prerequisite issuance of FAA no-hazard determinations. This condition of permit approval must be fulfilled prior to building permit issuance for a structure higher than 190-195 feet.
44. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, H14-023 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

- e. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project applicant shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
45. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
46. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Fire Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. The number and distribution of fire hydrants shall be based on CFC Table C105.1 (no reduction allowed for fire flow requirement).
47. **Fire Flow.** Required fire flow for the site is calculated using CFC Appendix B, or as otherwise approved in writing by the Fire Chief. A 50% reduction in required fireflow may be authorized for sprinklered buildings containing light hazard occupancies. A 25% reduction in required fireflow may be authorized for sprinklered buildings containing ordinary hazard occupancies. No reduction is provided for unsprinklered or extra hazard occupancy buildings.
48. **Fire Department Connections.** All fire department connections shall be located within 100 feet from a standard public fire hydrant. All alternate means of protections shall be reviewed by the Fire Department. The public fire hydrant(s) shall be located on the same frontage as all fire service connections.
49. **Fire Department Sprinkler and Standpipe Connections.** Fire Sprinkler and Standpipe Fire Department Connections (FDC) serving the same building shall be located directly adjacent to each other. Buildings in excess of 200 feet long and or having frontage on multiple streets shall have multiple FDCs. The Locations shall be approved during Plan Check by San Jose Fire Department and shall be depicted on the riser key plan(s).
50. **Location of Fire Pump.** Location and access to the fire pump and fire control rooms shall be pre-planned with the fire department. In accordance with CFC 509.2; Approved access shall be provided and maintained for all fire protection equipment to permit immediate safe operation and maintenance of such equipment. Each building shall be equipped with its own separate fire pump and fire control rooms.
51. **Access Control.** When access control devices including bars, grates, gates, electric and/or magnetic locks, or similar devices which would inhibit rapid fire department emergency access to the building are installed, such devices shall be approved by the Chief. All access control devices shall be provided with an approved means for deactivation or unlocking by the Fire Department. Access control devices shall also comply with CFC/CBC Chapter 10 for exiting.
52. **Security Gate Access.** All access control vehicle security gate(s) shall be a minimum of 20 feet clear width and may have a clear width of 14 feet for each direction of travel when split by median. Gates shall be recessed beyond the turning radius required by the San Jose Fire Department and without obstruction of any median island dividers. All gate installing shall

be reviewed and approved prior to construction. Electric gate operators must have UL 325 listing and it gate must comply with ASTM F2200.

53. **Lock Boxes.** The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief.
54. **Complex Map.** A complex map is recommended which incorporates an elevated view of the building and individual unit addresses. It should be illuminated during the hours of darkness and positioned in the lobby area so as to be readily readable from main pedestrian access entrance. A complex map should also be placed contiguous to the vehicular entrance to the development where it will not cause stacking problems when being viewed.
55. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
56. **Public Safety Radio Coverage.** Public Safety Radio Coverage is to be provided throughout the area of each floor of the building. Communication repeaters may be required to be installed in the buildings.
57. **Elevators.** Elevators shall be in accordance with the requirements stipulated in the California Building Code Chapter 30. All buildings with one or more passenger service elevators shall be provided with not less than one medical emergency service elevator.
58. **Rescue Doors/Windows.** Every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue that shall open directly into a public street, public alley, yard, or exit court. Such windows or doors shall be in accordance with the adopted Building Code, and accessible for Fire Dept. laddering operation. The angle for laddering is 70deg. from horizontal. Show all pertaining details including landscaping and pavers in relation to rescue window operation.
59. **Construction Fire Protection Plan.** A "Construction Fire Protection Plan" for approval by San Jose Building and Fire Departments is required prior to starting construction for wood framing projects consisting of 15 or more dwelling units or construction exceeding a total of 50,000 square feet.
60. **Management Association.** The developer/owner shall create and maintain a Management Association which will be responsible for the fire/life safety systems inspections per Title 19 and access to the systems if applicable.
61. **Smoke Control Systems.** San Jose Fire Department does not provide testing and inspection of Smoke Control systems. System must be tested and approved by a qualified 3rd party contractor.
62. **Emergency Power System.** Emergency power system shall be pre-planned with the fire department.
63. **Standpipes Available During Construction.** All buildings under construction, three or more stories in height, shall have at least one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections. Location(s) and numbers of standpipe(s) shall be reviewed and approved by the Fire Department.
64. **Adherence to the Parkland Dedication and Park Impact Ordinances.** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code), as referenced above, for the dedication of land and/or payment of fees in - lieu, under the formulas contained within in those chapters and the associated resolutions.

65. **Inclusionary Housing.** If the project described in this permit is located in a Redevelopment Project Area that is subject to the City's Inclusionary Housing Policy and the Project includes construction or substantial rehabilitation of residential units, then prior to issuance of a building or foundation permit for the project, the owner of the property described in this permit shall comply with the City's Inclusionary Housing Policy and record against the property written evidence of compliance with the City's Inclusionary Housing Policy, including, if required, recorded affordability restrictions and/or evidence of payment of an in lieu fee. Affordability restrictions and other written evidence of compliance shall be in a form acceptable to the City.
66. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this 8th day of October, 2014.

Harry Freitas, Director
Planning, Building, and Code Enforcement

Deputy